

THE UNITED STATES DISTRICT COURT
THE EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

BOBBY SMITH

Plaintiff,
vs.

Case No. 06-13301
HONORABLE DENISE PAGE HOOD
HONORABLE STEVEN D. PEPE

ALLAN BOSSEL,

Defendant.

**ORDER DENYING MOTION FOR RELIEF FROM JUDGMENT AND FOR
APPOINTMENT OF COUNSEL (DKT. #12)**

On August 27, 2007, Plaintiff filed his Motion for Relief of Judgment and Request for Appointment of Counsel in which he seeks court appointed counsel (Dkt. #12). All pretrial matters were referred to the undersigned on June 7, 2007. For the reasons indicated below, IT IS ORDERED THAT Plaintiff's Motion for Relief of Judgment is GRANTED and Plaintiff's Request for Appointment of Counsel is DENIED.

Plaintiff's Motion for Relief of Judgment is moot because no judgment in this case has been entered.

As to Plaintiff's second request included in the motion(Dkt #12), Plaintiff seeks to have this Court appoint an attorney to assist him with his case. Under 28 U.S.C. § 1915(e)(1), a federal court may request counsel to represent an indigent plaintiff. 28 U.S.C. § 1915(e)(1); *Reneer v. Sewell*, 975 F.2d 258, 261 (6th Cir. 1992). Yet, appointment of counsel for an indigent

party is a privilege justified only under exceptional circumstances. *Lavado v. Keohane*, 992 F.2d 601, 606 (6th Cir. 1993). To determine whether exceptional circumstances necessitating the appointment of counsel are present, courts consider the type of case involved, the ability of the plaintiff to represent himself, the complexity of the factual and legal issues, and whether the plaintiff's claims are frivolous or have an extremely small likelihood of success. *Id.*; *Reneer*, 975 F.2d at 261; *Mars v. Hanberry*, 752 F.2d 254, 256 (6th Cir. 1985). Based on several considerations, Plaintiff's claim is denied.

Bobby Smith, Plaintiff, is a prisoner in the custody of the Michigan Department of Corrections ("MDOC"). On July 21, 2007, he filed this action under 42 U.S.C. §1983 against Allan Bossell. The factual issues raised by Plaintiff in his eight-page typewritten complaint with attached exhibits are clear and straightforward. Plaintiff has demonstrated in his complaint that he understands the legal issues and can present these issues to a court in a satisfactory manner. Indeed, Plaintiff's complaint demonstrates a legal capacity superior to many *pro se* prisoner complaints in this Court. He has also plead exhaustion of administrative remedies for each claim.

Also, it must be noted that there is a grave scarcity of attorneys available to represent indigent persons in this Court. This Court has no funds to secure attorneys for indigent parties in civil cases, and has great difficulty finding attorneys willing to volunteer time to serve in *pro bono* cases without payment. Their services must be carefully rationed to the most appropriate cases.

Accordingly, Plaintiff's application for appointment of counsel is **DENIED**. Plaintiff is **barred** from bringing any further applications on appointment of counsel until after rulings on

any dispositive motions. Appointment of counsel may be reconsidered at that time.

SO ORDERED.

Date:August 31, 2007
Ann Arbor, Michigan

s/Steven D. Pepe
United States Magistrate Judge

CERTIFICATE OF SERVICE

I hereby certify that on August 31, 2007, I electronically filed the foregoing paper with the Clerk of the Court using the ECF system which will send notification of such filing to the following: not applicable, and I hereby certify that I have mailed by United States Postal Service the paper to the following non-ECF participants: Bobby Smith, #189410, Hiawatha Correctional Facility, 4533 W. Industrial Park Dr., Kincheloe, MI 49786

s/ James P. Peltier
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